

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

v.

**(1) CHARLES CHRISTOPHER
MINCY**

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No. A-13-CR-00005-LY

**REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

**TO: THE HONORABLE LEE YEAKEL
UNITED STATES DISTRICT JUDGE**

The undersigned submits this Report and Recommendation to the District Court pursuant to 28 U.S.C. § 636(b), 18 U.S.C. § 3401(i), and Rule 1(d) of Appendix C of the Local Court Rules of the United States District Court for the Western District of Texas, Local Rules for the Assignment of Duties to United States Magistrate Judges.

I. PROCEDURAL BACKGROUND

Mincy pleaded guilty to Count 1 of his indictment, which charged him with violation of 18 U.S.C. § 922(g)(1), Felon in Possession of a Firearm. Dkt. 29. The District Court accepted Mincy's plea and sentenced him to serve 115 months' imprisonment, followed by a term of supervised release of 3 years. *Id.*

Mincy is before the Court now on a Petition for Warrant or Summons for Offender Under Supervision. Dkt. 71. The petition alleges violations of Mandatory Conditions No. 1, No. 2, and No. 3 (shall not commit another federal, state, or local

crime during the term of supervision, shall not unlawfully possess a controlled substance, shall refrain from any unlawful use of a controlled substance); Special Condition (shall abstain from the use of alcohol and/or all other intoxicants during the term of supervision); and Standard Condition No. 11 (shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer). Mincy is scheduled for a final revocation hearing on March 17, 2022, at 10:00 am. Dkt. 79. Prior to the hearing, Mincy waived his right to a preliminary hearing, Dkt. 80, and the parties subsequently filed an Agreed Recommended Disposition in Final Revocation Proceeding and Waiver of Defendant's Appearance and Waiver of Hearing ("Agreed Recommended Disposition"), Dkt. 83.

II. AGREED DISPOSITION

Federal Rule of Criminal Procedure 32.1(c) provides that a hearing is not required in a revocation proceeding if (A) the person waives the hearing; or (B) the relief sought is favorable to the person and does not extend the term of supervised release; and (C) an attorney for the government has received notice of the relief sought, has had reasonable opportunity to object, and has not done so. The Agreed Recommended Disposition states in part:

Mr. Mincy was advised by undersigned counsel of his right to a preliminary hearing and has filed a waiver of the preliminary hearing on March 3, 2022. Dkt. No. 80. Counsel advised Mr. Mincy of his right to be physically present for the scheduled final revocation hearing, or, alternatively, to appear by video, his right to counsel, his right to disclosure of the evidence against him, and his right to make a statement and present mitigating information. Rule 32.1(b)(2) of the Federal Rules of Criminal Procedure permits a defendant to waive his revocation hearing. After consultation with counsel, Mr. Mincy wishes to waive his right to be present at his revocation hearing and wishes to

waive the hearing. Mr. Mincy admits that he violated the Standard Condition No. 11 as alleged in the petition. Mr. Mincy admits that he failed to notify the United States Probation Office of his arrest on March 3, 2021, after being released from state custody on March 8, 2021. Mr. Mincy asks the Court to accept his plea of true to the alleged violation of Standard Condition No. 11 as alleged in the Petition and find that the proposed agreed resolution of the case would be an appropriate disposition.

* * *

The proposed disposition is a guideline sentence for a Grade C violation that considers Mr. Mincy's underlying offense and the lengthy sentence that he served for it. In addition to this sentence, he will face the consequences and a possible additional period of incarceration related to his pending charges in Travis County. Given the resources the U.S. Probation Office has already offered Mr. Mincy, an additional term of federal supervision following this term of imprisonment would pose more challenges than it would be productive. Mr. Mincy has been in continuous custody since March 11, 2021.

Dkt. 83 (internal reference omitted).

III. RECOMMENDATION

Based on the agreement of the parties, the Court **RECOMMENDS** that the plea of True be accepted, Defendant's supervised release be **REVOKED**, and Defendant be sentenced to **TEN MONTHS** of imprisonment, with no supervised release to follow.

IV. WARNINGS

Because this is an agreed disposition, there will be no objections to this Report and Recommendation, and the matter is ripe for the District Court to act upon it.

SIGNED March 15, 2022.



DUSTIN M. HOWELL
UNITED STATES MAGISTRATGE JUDGE